



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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August 16, 2002

TO: File

THRU: Mary Ann Wright, Associate Director, Mining *MAW*

FROM: *for* D. Wayne Hedberg, Permit Supervisor *D. Hedberg*

RE: Division Directive & Notice of Non-Compliance Meeting, Ron Stout & Scott Stratton, Unpermitted Stone Quarry, M/053/073, Washington County, Utah

Date of Meeting: July 23, 2002
Time of Meeting: 10:00 – 11:45 a.m.
Meeting Location: Division Offices
Participants: Ron Stout & Scott Stratton - operators/partners; Tom Faddies, Will Stokes & John Blake - SITLA; Wayne Hedberg, Doug Jensen & Tom Munson - DOGM
Purpose of Meeting: To discuss resolution of outstanding Division Directive and Noncompliance Notice.

The above referenced personnel met on July 23, 2002, in conference room 1010 of the Division's offices to discuss resolution of the outstanding Noncompliance Notice and Division Order issued to Mr. Ron Stout, for an unpermitted quarrying operation located near St. George, Utah (NE/4 of NW/4, Section 20, T42S, R15W, SLBM, Washington County).

Background Information:

On May 24, 2002, after receiving a series of public complaints, the Division performed an inspection of the quarrying operation to determine the status of onsite conditions (see May 31, 2002 inspection memo). A GPS survey was performed by Division staff that indicated a surface disturbance of ~9.6 acres. Blasting, excavation and crushing of the fractured sandstone and alluvial overburden material was evident. Neither partner was on the project area at the time of the inspection. Large boulders were also present in small stockpiles onsite.

On June 17, 2002, the Division sent a certified letter of Non-compliance to Mr. Stout directing him to cease mining operations, post a transitional surety and file a large mine permit application. Mr. Stout was directed to contact the Division within 10 days of receipt of the letter to schedule a meeting to discuss options to remedy the situation.

On June 21, 2002, the Division received a letter from SITLA advising that the mineral estate was owned by the State of Utah and that their office had not issued any permits or leases for the mining or removal of building stone material from the subject lands. SITLA requested the Division to obtain a detailed survey and description from Mr. Stout of the types and quantities of building stone material removed from the lands. SITLA also requested resolution of the trespass before DOGM issues a mining permit.

On July 17, 2002 (following no operator response to the receipt of our certified letter), Division staff again inspected the site with representatives from MSHA and SITLA. Mining operations were active at the time of the inspection. Mr. Stratton met the regulatory representatives upon entry to the mine site. State and Federal regulatory jurisdiction was questioned and discussed during the inspection (see inspection memo for full details). Mr. Stratton was directed by Division staff to cease active operations and to call the Associate Director immediately to arrange a meeting to resolve this non-compliance situation. Mary Ann Wright and Wayne Hedberg were subsequently contacted and a meeting was arranged for 10:00 am, July 23, 2002, at the Division offices in Salt Lake City.

Meeting Discussions:

Following introductions and a discussion of the purpose for the meeting, Mr. Stout was asked to present a description of the purpose and status of the mining project. Mr. Stout described his operation as a commercial development plan and not a mining operation per se. He showed us a copy of a grading plan and road development drawing that he said has been approved and permitted by the St. George, Zoning & Planning Division. He said the excavation area is zoned for industrial development (M-1 zone) and that intermittent excavation operations have been conducted on this privately owned property for the past 3 to 4 years. He admitted to selling some fill material and large sandstone landscape boulders from the property (estimate 10-15% of volume excavated), but said they have *given away* the majority of the excavated material to help them speed up leveling of the site for an eventual commercial development and land trade with a local business owner.

Mr. Stratton estimated that roughly 50% of the material excavated and removed from the site has been unconsolidated sand and gravel. He said that most of the material has been used as borrow/fill material on a number of local commercial development and road building projects. Mr. Stout said that WalMart had initially pre-stripped ~ 40,000 cu yds of overburden material from the site, without charge, which was used to develop a portion of the local WalMart facility. He also stated that a substantial amount of the material has been, and is continuing to be used, as fill to build a local access/development road in conjunction with the city (~1 mile away). He said that fill material has been given to UDOT as well. He said that their development project was no different than many other active commercial development projects in the local area. He said he could think of at least 10 other similar land development projects excavating and selling rock material and asked if they would also be similarly required to obtain mining permits from DOGM.

Mr. Stout explained that a 3-acre parcel of disturbed land is located adjacent to his property and is currently owned by Rolling Stone Company. It was previously owned and operated by

Feller Stone. He said no development work has been performed since Feller Stone owned the property. Mr. Stout didn't want us including this adjacent disturbance as part of his operation. Mr. Stout estimated they will need to lower the level of their property another 20 – 30 feet before it is at the appropriate height to serve the proposed commercial use. He described a fault line that intercepts his property. East of the fault line the rock is "junk" and not suitable for commercial sale, while the rock material on the west side of the fault material is competent and more suitable to use commercially.

Mr. Faddies explained SITLA's rental and royalty requirements and advised Mr. Stout and Mr. Stratton that a mineral lease and permit would be required from their agency in addition to any mining permits that may or may not be necessary from DOGM. Mr. Stout and Mr. Stratton stated that only recently had they become aware that the minerals were owned by the State. Copies of their grading plan were to be made and hand delivered to SITLA that afternoon and appropriate paperwork filed by the operators to obtain the appropriate permits from that agency. Mr. Faddies asked the operators to produce an estimate of the volume of consolidated material removed to date from the site. He said that his staff had come up with a ballpark estimate that they would use to compare against the operator's estimate and then calculate past due royalty payments. Mr. Stout said he was not certain he could calculate an accurate volume of the consolidated material removed and asked for SITLA's estimate to use as a baseline. Mr. Faddies agreed to provide them with their volumetric estimate.

Findings & Recommendations:

Based upon the information gathered during our onsite inspections, at the subsequent meeting on July 23rd, and following discussion with upper management, it is our opinion that this land development project should be regulated, by the Division. Reasons for this decision of regulatory jurisdiction are based upon the following:

1. Solid bedrock material has been and will continue to be mined (drilled, blasted and excavated), therefore a categorical exemption under our "sand, gravel and rock aggregate" definitions is not applicable.
2. Solid bedrock material has been and will continue to be mined and processed for commercial sale. All of the material is not being consumed and used by the operator as part of the ongoing land development project. Portions of the mined bedrock material have been sold which make this operation similar to other commercial quarrying operations that sell rock for profit and must obtain appropriate mine permits from the Division.

The Division has previously not required permitting of land development projects where the excavated material is used exclusively onsite as part of the development proposal and is not sold commercially for profit.

Therefore, it is our recommendation that the Division require the operator to file the appropriate mine permit application that is based upon the final disturbed acreage figure that is ultimately determined for this project. If the solid bedrock-mining portion of this operation can be cleanly severed from the alluvial sand and gravel portion, then the permit should reflect this acreage accordingly. The

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Division may choose to establish an internal policy that similar land development projects, that do not sell mined bedrock material commercially for profit, not be subject to our regulatory jurisdiction. An alternative proposal may be to develop new regulatory language, similar to our coal regulatory program, that formally exempts this type of incidental mineral extraction activity.

jb
Attachments: 2- inspection memos
cc: Tom Faddies, SITLA
Ron Stout, Operator/owner
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